

REMARKS/ARGUMENTS

Pending 12-13, 15-17, and 19-20 are cancelled herein in favor of new Claims 23-31. The cancelled claims were rejected under 35 U.S.C. §103(a) as being unpatentable over Deaton, U.S. Patent No. 6,516, 302 ("Deaton") in view of Imbo, U.S. 2002/0033753A1 ("Imbo"); and were also rejected under 35 U.S.C. §103(a) as being unpatentable over Imbo in view of Deaton.

In view of the above, new claims have been added to incorporate various elements and limitations of the present invention not disclosed, taught or suggested in the art cited. Specifically, new base Claim 23 recites the following:

- (a) a method for retaining fee-based memberships at a health club providing health club services to its members;
- (b) the method includes active and ongoing categorization of club members throughout their respective membership cycles into one of a plurality of member segments based on a systematic and periodic evaluation of their levels of attendance at the health club;
- (c) the member segments comprising new members and established members;
- (d) for new members of the health club, the method includes administering a multi-week new member communication program;
- (e) during the new member communication program, new members attending the health club at least 3 times per week are identified as new member/regular users;
- (f) during the new member communication program, new members attending the health club but less than 3 times per week are identified as new member/low users;
- (g) during the new member communication program, new members failing to attend the health club for any single week are identified as new member/non-users;

(h) throughout the new member communication program, conducting a systematic evaluation of new member attendance to determine the new members' classification as a new member/regular user, new member/low user, and new member/non-user;

(i) based on the evaluation of new member attendance, transmitting a first customized message at least 2 times per week to each of the new member/regular users;

(j) based on the evaluation of new member attendance, transmitting a second customized message at least 2 times per week to each of the new member/low users;

(k) based on the evaluation of new member attendance, transmitting a third customized message at least 2 times per week to new member/non-users;

(l) the first, second, and third customized messages of the new member communication program communicating different content to the new users in the respective new user segments;

(m) further categorizing established members of the health club based on their level of attendance into one of regular user members, low user members, and non-user members;

(n) for regular user members of the health club, administering a regular user communication program wherein regular user members attending the health club at least 12 times per month during the regular user communication program remain in the regular user communication program;

(o) for regular user members of the health club, administering a regular user communication program wherein regular user members failing to attend the health club at least 12 times during any single month during the regular user communication program are

removed from the regular user communication program, and are reclassified as low user members;

(p) throughout the regular user communication program, conducting a systematic evaluation of member attendance to evaluate the established members' classification as a regular user member;

(q) throughout the regular user communication program, transmitting customized messages to the regular user members no more than once per month;

(r) for low user members of the health club, administering a low user communication program wherein low user members attending the health club at least 12 times per month for two consecutive months during the low user communication program are reclassified as regular user members, and are placed into the regular user communication program; and wherein low user members failing to increase their attendance at the health club during the low user communication program are reclassified as non-user members;

(s) throughout the low user communication program, conducting a systematic evaluation of member attendance to evaluate the established members' classification as a low user member;

(t) throughout the low user communication program, transmitting customized messages to the low user members no more than twice per month;

(u) administering a recovery program for non-user members of the health club;

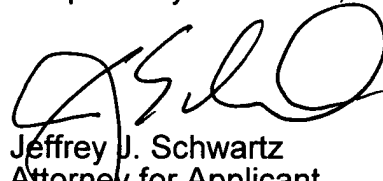
(v) throughout the recovery program, conducting a systematic evaluation of member attendance to evaluate the established members' classification as a non-user member; and

(w) throughout the recovery program, transmitting customized messages to the non-user members at least twice per week.

With regard to the prior art cited, neither Deaton nor Imbo, alone or in combination, teaches or suggests *a method for retaining fee-based memberships at a health club which includes each of (a) through (w) above*. In addition to promoting membership retention, the present method is intended to encourage at least the minimum level of exercise established by the American Heart Association, as indicated by the monthly and weekly attendance numbers recited in base Claim 23. Applicant respectfully submits that the combination of Deaton and Imbo (and the examiner's "official notice") **fails to disclose all of 23 of the claim features outlined above**, nor is there an incentive or motivation in this prior art **to combine all 23 of these features in the claimed method**. As such, base Claim 23 is considered allowable over the art cited. New Claims 24-31 depend from base Claim 23, and are likewise considered allowable.

In view of the above, Applicant respectfully submits that all of the claims in the case are in condition for allowance. Such action is therefore respectfully requested at an early date. If the Examiner believes that issues remain for discussion, he is invited to contact the undersigned at the telephone number indicated below.

Respectfully submitted,



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